

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10
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R 141755Z AUG 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC 1086
INFO AMEMBASSY PARIS
AMEMBASSY LONDON
USMISSION USBERLIN

C O N F I D E N T I A L SECTION 01 OF 02 BONN 14795

E.O. 11652: XGDS-1
TAGS: PGOV AKB BQG
SUBJECT: ARMING OF PROSECUTORS AND JUDGES IN BERLIN

REFS: PARIS 25081 AND PREVIOUS

1. REFTTEL CONFIRMS THE IMPRESSION WE HAVE HERE THAT THE FRENCH WILL BE FIRM ON THE QUESTION OF ARMING OF JUDGES AND PROSECUTORS IN BERLIN. THE SUBSTANCE OF THE SUBJECT HAS, UNTIL NOW, BEEN DISCUSSED ONLY TRIPARTITELY BY THE ALLIED REPRESENTATIVES TO THE BONN GROUP AND THERE HAS BEEN NO THOROUGH DISCUSSION IN THE FULL BONN GROUP. SINCE THE LAST TRIPARTITE DISCUSSION, THE UK AND FRENCH REPS HAVE APPARENTLY BEEN INFORMED BY THEIR MISSIONS IN BERLIN OF THE DISCUSSIONS IN BERLIN AND THE CONSENSUS THERE THAT THERE IS NO LEGAL BAR TO ARMING JUDGES AND PROSECUTORS. WE WILL THEREFORE HAVE ANOTHER TRIPARTITE DISCUSSION OF THE SUBJECT, WHICH WILL PRESUMABLY RESULT IN THE US AND UK REPS FAVORING AND THE FRENCH REP OPPOSING ALLOWING ARMING.

2. WHEN THERE WAS A QUESTION OF THE INTERPRETATION
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OF ALLIED LAW, WHICH WAS THE APPARENT BARRIER TO THIS COURSE, IT WAS ENTIRELY REASONABLE TO TREAT THIS QUESTION TRIPARTITELY. NOW THAT THE LEGAL QUESTION HAS, HOPEFULLY, BEEN SETTLED, THE FRENCH OBJECTIONS ARE ESSENTIALLY POLITICAL ONES AND THERE IS NO REASON THE MATTER SHOULD NOT BE DISCUSSED IN THE FULL BONN GROUP WHERE THE ALLIED SPLIT WILL OF COURSE BECOME APPARENT.

3. THE FRG HAS NOT RAISED THIS MATTER IN THE BONN GROUP FOR SOME WHILE, APPARENTLY BELIEVING THAT THERE IS NO CHANCE OF THE ALLIED AGREEMENT TO ARM JUDGES AND PROSECUTORS. NOR HAS THE FRG MADE A FORMAL REQUEST THAT WE PERMIT THEIR ARMING. IF ONE OF THE ALLIES DOES NOT TAKE THE INITIATIVE TO RAISE IT, AND IF THE FRG REMAINS UNINFORMED OF THE ALLIED VIEW ON THE LEGAL QUESTION, THE SUBJECT MAY NOT BE DISCUSSED FURTHER. THIS WOULD CAUSE DIFFICULTIES ONLY IF SOMETHING HAPPENS TO ONE OF THE JUDGES OR PROSECUTORS. THE ALLIES WOULD BE BLAMED IN SOME CIRCLES FOR NOT ALLOWING THESE HIGHLY-ENDANGERED PEOPLE TO CARRY ARMS. ACCORDING TO A LIST PROVIDED BY USBER, THERE ARE 15 JUDGES AND PROSECUTORS IN THE MOST ENDANGERED CATEGORY (GEFAEHRDESTUFE EINS), OUT OF A TOTAL OF 37. THE OTHERS IN THIS CATEGORY ARE STOBBE, LORENZ, SPRINGER, JEWISH LEADER GALINSKI, 12 COURT-APPOINTED COUNSEL AND SIX FAMILY MEMBERS OF THE COUNSEL.

4. OUR OWN INCLINATION, AFTER THE NEXT (PRESUMABLY UNSUCCESSFUL) TRIPARTITE MEETING, IS TO TELL THE FRENCH THAT IT IS ONLY APPROPRIATE THAT THE MATTER BE DISCUSSED IN THE FULL BONN GROUP. THE FRENCH WILL PROBABLY NOT BE DELIGHTED BUT WE DOUBT THEY WILL STRENOUSLY OBJECT. A FULL DISCUSSION WILL REVEAL HOW SERIOUSLY THE FRG (AND SENAT) WISH TO PURUSE THE MATTER
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C O N F I D E N T I A L SECTION 02 OF 02 BONN 14795

AND, EVEN IF THE FRENCH REMAIN ADAMANT IN THEIR OPPOSITION TO THE POINT OF NOT ALLOWING JUDGES AND PROSECUTORS TO CARRY ARMS, WE WILL AT LEAST HAVE MADE CLEAR THE US POSITION. SHOULD SOMETHING UNFORTUNATE HAPPEN, IT WILL SOON BECOME PUBLIC KNOWLEDGE THAT THE REASON FOR THE REFUSAL TO PERMIT THE CARRIAGE OF ARMS WAS THE RESULT OF THE FRENCH POSITION ALONE.

5. WE WOULD SUGGEST ONE OF THREE POSSIBLE COURSES:

(A) THAT THE US AND UK INTRODUCE THE MATTER INTO THE FULL BONN GROUP.

(B) THAT THE US ALONE RAISE IT IF NECESSARY, ALTHOUGH WE HAVE NO REASON TO DOUBT THE BRITISH ARE ALSO PREPARED TO DO SO.

(C) THAT WE INDICATE TO THE GERMANS THAT IF THEY WISH TO PURSUE THE MATTER, THEY SHOULD RAISE IT AGAIN AS A QUESTION IN THE BONN GROUP.
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6. ACTION REQUESTED: DEPARTMENT'S GUIDANCE.
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